



MASSACHUSETTS
PLANNING BOARD

MEETING MINUTES
DECEMBER 18, 1980
8:00 PM; DPW FACILITY

PRESENT Mrs. Bayne (Chairwoman); members, Mr. Phillips, Mr. Weare, Mr. Becklean, Ms. McCarthy; Planning Administrator, Mr. Dufresne; Acheson (Mike) Callaghan.

Mike began by describing his role as Town Counsel for the Town of Acton. He then addressed questions by Board members. Among the topics discussed were private ways, partial lot releases, use regulations and special permits, and the flood plain by-law.

Private Roads

The first question Mike responded to pertained to the building of a private way to provide frontage for a limited number of house lots. The Board questioned whether the Board could approve such a plan under the subdivision control law and then waive some of the requirements for standard road construction. Mike replied that the construction requirement could be waived under Section 81-R of the Subdivision Control Law. Maintenance and liabilities would be the responsibility of the owners, and this would be specified in the conditions for approval along with restrictions limiting further subdivisions at this site. Mr. Becklean wondered if the approval of such a plan would obligate the Board to approve all similar plans for private road construction in the future. Mike replied that every plan is different and that 81-R gives the Board the flexibility to review and act upon each plan differently.

Mr. Dufresne explained the Gauthier's proposed plan to Mike which involves construction of a private road over a 40 foot right of way to provide access and frontage requirements to their landlocked property. Mike suggested that the Gauthiers' undertake a title search to find the owner of the right of way and then let the Board of Appeals deal with the case.

Mike then addressed the question as to whether the Hall's who live at the corner of Joseph Reed Lane and Knowlton Drive are liable for accidents occurring on the retention wall which was not built in the proper location nor to the Engineering Department's specifications by the developers of the Cedar Meadows Subdivision, but which was partially built on their property. Mike's opinion was that the Hall's would not be liable for injuries sustained by persons using the wall.

Use Regulations and Special Permits

Mrs. Bayne asked if what is not expressly allowed in the by-law on the subject of use regulations is forbidden. Mike said that he interpreted this to be true. Mike then discussed his views on the site plan review process and use variances. It was Mike's opinion that use regulations should be incorporated in the zoning by-laws rather than controlled by denial of site plans. Mike suggested that the Board begin to draft any defensible use regulations it would like to see incorporated into Acton's by-laws.

Subdivision Endorsement Time Limit

Mike agreed with the Board's express desire to include in its conditions for approval of subdivisions a time limit (such as 60 days) between approval and endorsement of definitive subdivision plans.

Partial Release of Lots

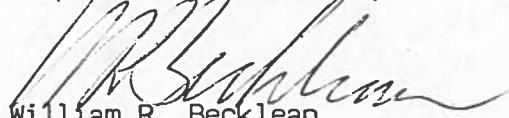
Mr. Dufresne questioned the legality of holding back some of the lots requested for release by developers rather than releasing all of the lots. Mike said that it is the developer's option as to whether either a bond or a lot shall be held, but it is the Planning Board's option as to the bond amount and whether all or some of the lots shall be released.

Flood Plain By-law

The Board asked, on request of the Board of Appeals, whether the flood plain by-law allows compensatory storage. Mike felt that because the by-law does not deny compensatory storage, it cannot be routinely forbidden. The Board of Appeals, though, has great discretion in setting conditions for the Special Permits in any particular case.

The meeting was adjourned at 10:30 PM

Respectfully submitted,



William R. Becklean
Clerk